

Department of Health and Human Services

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to report to the permitting official any accident involving the non-Government user.

(c) The official delegated authority for approving the use of Department facilities will not permit the use of laboratory facilities unless he determines:

(1) That facilities are available for the period desired; and

(2) That the proposed research will not interfere with regular Department functions or needs, nor require the subsequent acquisition of additional equipment by the Department.

§ 9.5 Restrictions.

(a) Each individual authorized to use Department facilities will be expected to use the facilities and equipment with customary care and otherwise conduct himself in such manner as to complete his research or study within any time limits prescribed.

(b) Each individual authorized to use HHS facilities may not be authorized to sign requisitions for supplies and equipment.

(c) Any official approving the use of HHS facilities should seek an agreement, executed by non-Government users, absolving the Federal agency of liability in case of personal injury, death, and failure or damage to the non-Government user's experiments or equipment. The agreement must also contain a statement that the non-Government user will comply with all safety regulations and procedures while using such facilities.

PART 12—DISPOSAL AND UTILIZATION OF SURPLUS REAL PROPERTY FOR PUBLIC HEALTH PURPOSES

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EXHIBIT A TO PART 12—PUBLIC BENEFIT ALLOWANCE FOR TRANSFER OF REAL PROPERTY FOR HEALTH PURPOSES

AUTHORITY: Sec. 203, 63 Stat. 385, as amended; 40 U.S.C. 484; sec. 501 of Pub. L. 100-77, 101 Stat. 509-10, 42 U.S.C. 11411.

SOURCE: 45 FR 72173, Oct. 31, 1980, unless otherwise noted.

§ 12.1 Definitions.

(a) *Act* means the Federal Property and Administrative Services Act of 1949, 63 Stat. 377 (40 U.S.C. 471 et seq.). Terms defined in the Act and not defined in this section have the meanings given to them in the Act.

(b) *Accredited* means having the approval of a recognized accreditation board or association on a regional, State, or national level, such as a State Board of Health. *Approval* as used above describes the formal process carried out by State Agencies and institutions in determining that health organizations or programs meet minimum acceptance standards.

(c) *Administrator* means the Administrator of General Services.

(d) *Assigned property* means real and related personal property which, in the discretion of the Administrator or his designee, has been made available to the Department for transfer for public health purposes.

(e) *Department* means the U.S. Department of Health and Human Services.

(f) *Disposal agency* means the executive agency of the Government which has authority to assign property to the Department for transfer for public health purposes.

(g) *Excess* means any property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.

(h) *Fair market value* means the highest price which the property will bring by sale in the open market by a willing seller to a willing buyer.

(i) *Holding agency* means the Federal agency which has control over and accountability for the property involved.

(j) *Nonprofit institution* means any institution, organization, or association, whether incorporated or unincorporated, no part of the net earnings of

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which inures or may lawfully inure to the benefit of any private shareholder or individual, and (except for institutions which lease property to assist the homeless under Title V of Pub. L. 100-77) which has been held to be tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954.

(k) *Off-site property* means surplus buildings, utilities and all other removable improvements, including related personal property, to be transferred by the Department for removal and use away from the site for public health purposes.

(l) *On-site* means surplus real property, including related personal property, to be transferred by the Department for use in place for public health purposes.

(m) *Public benefit allowance* means a discount on the sale or lease price of real property transferred for public health purposes, representing any benefit determined by the Secretary which has accrued or may accrue to the United States thereby.

(n) *Related personal property* means any personal property: (1) Which is located on and is (i) an integral part of, or (ii) useful in the operation of real property; or (2) which is determined by the Administrator to be otherwise related to the real property.

(o) *Secretary* means the Secretary of Health and Human Services.

(p) *State* means a State of the United States, and includes the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States.

(q) *Surplus* when used with respect to real property means any excess real property not required for the needs and the discharge of the responsibilities of all Federal agencies as determined by the Administrator.

[45 FR 72173, Oct. 31, 1980, as amended at 53 FR 7745, Mar. 10, 1988]

§ 12.2 Scope.

This part is applicable to surplus real property located within any State which is appropriate for assignment to, or which has been assigned to, the Department for transfer for public health purposes, as provided for in section 203(k) of the Act.

45 CFR Subtitle A (10-1-02 Edition)

§ 12.3 General policies.

(a) It is the policy of the Department to foster and assure maximum utilization of surplus real property for public health purposes, including research.

(b) Transfers may be made only to States, their political subdivisions and instrumentalities, tax-supported public health institutions, and nonprofit public health institutions which (except for institutions which lease property to assist the homeless under Title V of Pub. L. 100-77) have been held tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1954.

(c) Real property will be requested for assignment only when the Department has determined that the property is suitable and needed for public health purposes. The amount of real and related personal property to be transferred shall not exceed normal operating requirements of the applicant. Such property will not be requested for assignment unless it is needed at the time of application for public health purposes or will be so needed within the immediate or foreseeable future. Where construction or major renovation is not required or proposed, the property must be placed into use within twelve (12) months from the date of transfer. When construction or major renovation is contemplated at the time of transfer, the property must be placed in use within 36 months from the date of transfer. If the applicable time limitation is not met, the transferee shall either commence payments in cash to the Department for each month thereafter during which the proposed use has not been implemented or take such other action as set forth in § 12.12 as is deemed appropriate by the Department. Such monthly payments shall be computed on the basis of the current fair market value of the property at the time of the first payment by subtracting therefrom any portion of the purchase price paid in cash at the time of transfer, and by dividing the balance by the total number of months in the period of restriction. If the facility has not been placed into use within eight (8) years of the date of the deed, title to the property will be revested in the United States, or, at the discretion of the Department, the